

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MICHAEL QUINTANILLA,

Plaintiff,

- v -

THE CITY OF NEW YORK, et al.,

Defendants.  
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ORDER

CV-99-8638 (ARR) (VVP)

In response to this court's direction in an Order dated August 26, 2004, the plaintiff has renewed his application for an adjournment of the trial because he has been unable to secure counsel and has been unable to contact a witness. As to the unavailability of counsel, the plaintiff further advises that an attorney whom he had hoped to retain has been suspended. Accordingly the plaintiff wishes to obtain an adjournment until counsel is reinstated or until he finds a lawyer. As to the inability to contact a witness, the plaintiff advises that the witness will not return phone calls.

Neither of the grounds upon which an adjournment is sought provide an adequate basis for further delaying the trial of this case. As to the unavailability of the lawyer the plaintiff had hoped to retain, the court notes that the plaintiff had sought to engage the attorney more than a year ago. Nevertheless, the attorney never entered the action notwithstanding that final pretrial preparations had begun even before the case was reassigned to this magistrate judge for trial months ago. His unavailability therefore cannot be considered. (In the circumstances the court finds it highly doubtful that the attorney would have entered the action at this late date in any event.) Nor can the court wait until the plaintiff finds a lawyer willing to accept this case for trial. This case is nearly six years old. Further delay will not serve the ends of justice for either the plaintiff or the defendants.

As to the apparent unwillingness of the witness to acknowledge the plaintiff's telephone calls, the court will sign a subpoena requiring the witness to appear for trial. The plaintiff simply needs to arrange for the subpoena to be served upon the witness at his residence or place of

business by someone who is not a party. That will be sufficient to preserve the plaintiff's rights with respect to the appearance of the witness at trial.

Accordingly, the application to adjourn the trial date is denied.

**SO ORDERED:**

*Viktor V. Pohorelsky*

VIKTOR V. POHORELSKY  
United States Magistrate Judge

Dated: Brooklyn, New York  
September 8, 2005